



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

COMMENTS OF THE CITY OF IOWA CITY, IOWA

These Comments are filed by the City of Iowa City in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NATOA, the City of Iowa City believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in Our Community

Community Information

Iowa City is a city with a population of 63,000. Our franchised cable provider is Mediacom Communications Corp. Our community has negotiated cable franchises since 1981.

Our Current Franchise

Our current franchise began on October 1, 2005 and expires on October 1, 2018.

Our franchise requires the cable operator to pay a franchise fee to the city in the amount of 5% of the cable operator's gross revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

We require the cable operator to provide 1 channel for public access, 3 channels for educational access, 1 channel for public library access, and 2 channels for government access.

Our franchise requires that the cable operator support the public access operations with \$198,849.84 annually with a CPI escalation for the operation of the public access facility offered in negotiations by Mediacom, a \$0.55 per subscriber per month fee passed through from consumers to support the local community television operations, and a one-time grant of

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approximately \$42,000 for constructing remote origination sites. These items were offered by Mediacom during franchise negotiations.

Our franchise requires the cable operator to provide an all-channel emergency alert system for use by the City. Activation can be initiated from a touch-tone phone with an access code. These emergency alert requirements provide an important avenue of communication with our residents in the event of an emergency.

Our franchise contains a number of customer service obligations, by which we are able to help ensure that the cable operator is treating our residents in accordance with federal standards and the terms it agreed to in its franchise. The cable operator must supply subscribers with detailed subscriber information. A local business office must be open at least 58 hours per week. System outages may result in subscriber rate rebates. Response to repair calls must be provided 24 hours a day and service calls provided 8-5 Monday through Saturday in 2-hour windows. Installation must be provided within 7 days of request. A schedule of liquidated damages for violations range from \$150-250 per day per violation.

Our previous franchise required an upgrade rebuild within 2 years.

Our franchise requires that the cable operator currently provide service to all areas of our community with 20 dwellings per mile of cable plant. Dwellings in low-density areas are subject to a formula for construction cost sharing. New developments must be provided service within 6 months.

In order to ensure that our residents have access to current telecommunications technologies, our previous franchise required an upgrade of the system to 550 MHz with spacing for 750 MHz. The system has two-way capacity and fewer than 500 homes per fiber node.

Our franchise contains a "most-favored-nations" provision which states that when any new cable service, equipment, and/or facilities are offered by Mediacom or its subsidiaries in the other head-ends in the state of Iowa the new cable services, equipment, and/or facilities must be offered in the franchise area within one year.

Our franchise contains the following insurance and bonding requirements: \$3,000,000 bodily injury, \$1,000,000 property damage, and \$1,000,000 automobile insurance. A letter of credit for \$75,000 is required. In the event of new system construction a \$1,000,000 bond is required.

The cable franchise grants the cable operator access to the public rights of way and compatible easements for the purpose of providing cable television service. Apart from the franchise, the cable provider is required to obtain a permit from the appropriate municipal office as well before it may access the public rights of way. There is no permit fee.

The franchise agreement provides for a schedule of liquidated damages ranging from \$150-250 per day per infraction.

The Franchising Process

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

Our current franchise provides that changes in law which affect the rights or responsibilities of either party under this franchise agreement may be re-negotiated.

Competitive Cable Systems

Our community has actively sought out competitive providers, but has not been successful. A competitive franchise was granted to a potential cable overbuilder in 1999 but that company did not provide service in the community. They chose to not pursue offering cable TV service to Iowa City or several other communities in which they were going to deliver cable service shortly after signing a franchise agreement with the city. The material terms of that franchise were identical to those of the incumbent cable TV franchisee.

Conclusions

The local cable franchising process functions well in Iowa City. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. I would seem unnecessary to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Iowa City therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steve Atkins", written in a cursive style.

City of Iowa

By: Steve Atkins
City Manager
January 23, 2006

cc: NATOA, info@natoa.org
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